

**U.S. BANK NATIONAL ASSOCIATION AS
LEGAL TITLE TRUSTEE FOR TRUMAN
2016 SC6 TITLE TRUST,**

V.

C.A. No. 1:21-CV-00198-JJM-PAS

**ROBERT TED BROWN; MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC.; and INTERNAL
REVENUE SERVICE,**

**PLAINTIFF’S MOTION FOR DEFAULT JUDGMENT
PURSUANT TO RULE 55(B)(2)**

The Plaintiff, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust (“Plaintiff”), hereby moves for default judgment against the Defendants, Robert Ted Brown (“R. Brown”), Mortgage Electronic Registration Systems, Inc. (“MERS”) and the Internal Revenue Service (“IRS”) (collectively, the “Defendants”), pursuant to Rule 55(b) of the Federal Rules of Civil Procedure. This Court entered default orders against the Defendants on March 18, 2022, and Plaintiff seeks authorization to foreclose pursuant to Rhode Island General Laws § 34-27-1, *et seq.* In support of its motion, Plaintiff submits the Affidavit of Crystal Hollins (“Lender Affidavit”), Assistance Vice President for Rushmore Loan Management Services LLC, the loan servicer and attorney-in-fact for the Plaintiff, filed herewith.

FACTS/TRAVEL

1. On May 31, 2006, R. Brown signed a promissory note (“Note”) in the original principal amount of \$414,400.00, which has been endorsed in blank and now held by the Plaintiff. (Lender Aff. at ¶ 4; Ex. A).
2. That same date, R. Brown granted a mortgage (“Mortgage”) to MERS, as nominee mortgagee for New Century Mortgage Corporation as security for the Note. (Lender Aff. at ¶ 5; Ex. B).
3. The Mortgage encumbers the real property located at 199 Hudson Pond Road, West Greenwich, Rhode (“Property”). (Ex. B at 3).
4. On June 29, 2017, Plaintiff acquired its title interest in the Mortgage pursuant to a chain of assignments recorded with the West Greenwich Land Evidence Records. (Lender Aff. at ¶ 6; Ex. C).
5. On October 1, 2015, R. Brown defaulted under the terms of the Note and Mortgage for nonpayment of the monthly installments. (Lender Aff. at ¶ 7).
6. On April 17, 2017, the prior loan servicer, Fay Servicing, LLC, mailed a notice of default (“Default Notice”) addressed to R. Brown. (Lender Aff. at ¶ 8; Ex. D).
7. The Default Notice informed R. Brown that the loan was in default for nonpayment, the total amount to cure the default, that the default must be cured by May 22, 2017, and that failure to cure may result in acceleration and foreclosure. (*See* Ex. D).
8. The Default Notice further informed R. Brown, in strict compliance with the Mortgage, that they have the right to reinstate the loan after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense to acceleration and sale. (*See Id.*)

9. On August 5, 2021, R. Brown was served via personal service at his place of residence with an individual of suitable age and discretion residing therein. (Doc. 6).
10. On September 27, 2021, the MERS was served via personal service through a process server by leaving a copy of the same at Defendant's place of business on an agent authorized to accept service. (Doc 9).
11. On July 20, 2021, the IRS was served at via personal service on the Office of the United States Attorney General for the District of Rhode Island. (Doc 5).
12. On August 11, 2021, the IRS was served via certified mail, return receipt requested to the United States Department of Justice. (Doc 7).
13. On August 12, 2021, the IRS was served via certified mail to the Office of the United States Attorney General. (Doc 8).
14. On March 18, 2022, this Court entered default orders against the Defendants for their failure to plead or otherwise respond to the Plaintiff's complaint. (Doc 13).
15. There are no other parties holding a junior interest to the Property. (Lender Aff. at ¶ 11; Ex. E).
16. The total amount due on the Mortgage, as of June 30, 2022, is five hundred thirty-one thousand two hundred ninety seven dollars and nineteen cents (\$531,297.19). (Lender Aff. at ¶ 12; Exs. F-G).
17. The Defendants are not in the military service of the United States or its Allies, as defined in the "Servicemembers Civil Relief Act", pursuant to 50 U.S.C.A. § 501, et seq.
18. There is no obligation to send a notice of mediation pursuant to Rhode Island General Laws § 34-27-3.2 in the context of a judicial foreclosure. *See* R.I. Gen. Laws § 34-27-

3.2(d)(5) (“Notwithstanding any other provisions of this section, a mortgagee may initiate a judicial foreclosure in accordance with § 34-27-1.”)

WHEREFORE, the Plaintiff, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust requests that this Court:

1. Enter default judgment against the Defendants, Robert Ted Brown, Mortgage Electronic Registration Systems, Inc., and the Internal Revenue Service;
2. Issue an order authorizing Plaintiff, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust, its successors and/or assigns, to foreclose the subject Mortgage by substantially following the procedure for statutory power of sale foreclosures as set forth in R.I. Gen. Laws § 34-27-4, as well as any other procedures that this Court determines equitable and appropriate under the circumstances;
3. Issue an order setting forth the specific terms by which the Defendants may redeem the subject Mortgage prior to a foreclosure auction being conducted;
4. Issue an order requiring Plaintiff, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust, its successors and/or assigns, to file a report of sale for confirmation by the Court; and
5. Grant Plaintiff such additional legal and equitable relief as this Court deems just and appropriate.

Respectfully Submitted,
Plaintiff,
U.S. Bank National Association as Legal Title
Trustee for Truman 2016 SC6 Title Trust
By its attorneys,

/s/ Rowdy M. Cloud
Rowdy M. Cloud, Esq. (#9383)
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Dated: August 3, 2022

CERTIFICATION

I hereby certify that on the 3rd day of August, 2022, I caused the foregoing *Plaintiff's Motion for Default Judgment* to be filed through the Court's electronic filing system and served via UPS Ground Mailing Service, postage prepaid on the following:

Robert Ted Brown
199 Hudson Pond Road
West Greenwich, RI 02817

P.O. Box 55
Ben Franklin Station
Washington, DC 20044

Mortgage Electronic Registration Systems,
Inc.
1901 E. Voorhees Street
Danville, IL 61834

Office of the United States Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

United States Department of the Treasury
United State Department of Justice, Tax
Division, Civil Trial Section, Northern
Region

Office of the United States Attorney, District
of Rhode Island
50 Kennedy Plaza, 8th Floor
Providence, RI 02903

The document electronically filed is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Rowdy M. Cloud
Rowdy M. Cloud, Esq. (#9383)